



Response Under 37 C.F.R. § 1.116
Expedited Procedure
Examining Group 3700

PATENT
ATTORNEY DOCKET NO.: 040894-7167

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Toshio SHIMIZU et al.) Confirmation No.: 3575
)
Application No.: 10/522,178) Group Art Unit: 3721
)
Filed: January 24, 2005) Examiner: B. Nash
)
For: STAPLER AND CARTRIDGE) Mail Stop AF

Commissioner for Patents
Customer Window, Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

**AMENDMENT AND REQUEST FOR RECONSIDERATION
UNDER 37 C.F.R. § 1.116 TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment and Request for Reconsideration Under 37 C.F.R. § 1.116 responding to the Final Office Action dated July 28, 2006.
2. Additional papers enclosed:
 - ☐ Drawings: ☐ Formal ☐ Informal (Correction)
 - ☐ Information Disclosure Statement
 - ☐ Form PTO-1449, _____ references included
 - ☐ Citations
 - ☐ Declaration of Biological Deposit
 - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☒ Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00

Extension of time fee due with this request: \$_____

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for _____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	5	minus	20	0	x \$50 each=	+ \$
Independent Claims (37 C.F.R. §1.16(b))	2	minus	3	0	x \$200 each=	+ \$
<input type="checkbox"/> First presentation of Multiple dependent claim(s)					\$360.00	+ \$
SUB-TOTAL =						\$
Reduction by ½ for filing by a small entity						- \$
TOTAL FEE =						\$

6. Fee Payment

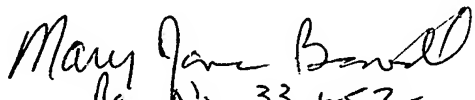
- ☒ No fee is to be paid at this time.
- ☐ The Commissioner is hereby authorized to charge _____ for _____ to Deposit Account 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: September 26, 2006

By:


Reg. No. 33,652

David B. Hardy
Reg. No. 47,362

CUSTOMER NO. 009629

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**AMENDMENT AND REQUEST
FOR RECONSIDERATION UNDER 37 C.F.R. § 1.116**

In response to the Final Office Action dated July 28, 2006, the period of response to which extends through October 30, 2006, because October 28, 2006 falls on a Saturday, entry of the following Amendment is respectfully requested to place the application in clear condition for allowance or, alternatively, in better form for appeal.